

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

VLSI TECHNOLOGY LLC,

Plaintiff,

v.

INTEL CORPORATION,

Defendant.

Case No. 6:21-cv-057-ADA

**STIPULATION AND JOINT PROPOSAL
REGARDING POST-TRIAL PROCEEDINGS**

The parties, subject to the Court's approval, agree to and jointly propose the following regarding post-trial proceedings in the above-captioned litigation:

1. Intel intends to present the following asserted bench-trial claims and defenses for resolution by the Court, each of which VLSI will oppose: unclean hands, prosecution history estoppel, ensnarement, and claim vitiation (collectively, "Intel's Bench Trial Claims and Defenses"). The parties expect to submit Intel's Bench Trial Claims and Defenses on the papers and without further trial time.
2. The parties also each intend to file post-trial motions regarding a number of issues, including but not limited to renewed JMOL motions and motions for a new trial under Rules 50(b) and 59(a)(1)(A) (collectively, "Renewed JMOL and New Trial Motions").
3. The following schedule for post-trial submissions shall apply regarding Intel's Bench Trial Claims and Defenses and any Renewed JMOL and New Trial Motions:

- a. April 9, 2021:
 - i. Intel to file its opening briefing, and proposed findings of facts and conclusions of law, on Intel's Bench Trial Claims and Defenses;
 - ii. Both parties to file any Renewed JMOL and New Trial Motions;
- b. May 7, 2021:
 - i. VLSI to file its opposition briefing, and proposed findings of facts and conclusions of law, on Intel's Bench Trial Claims and Defenses;
 - ii. Both parties to file opposition briefs regarding Renewed JMOL and New Trial Motions;
- c. May 21, 2021:
 - i. Intel to file its reply briefing on Intel's Bench Trial Claims and Defenses;¹
 - ii. Both parties to file reply briefs regarding Renewed JMOL and New Trial Motions;

¹ The parties disagree as to whether Intel is permitted to file reply proposed findings of fact and conclusions of law.

Intel's position is that it intends to file reply proposed findings of fact and conclusions of law to address any additional facts on Intel's Bench Claims and Trial Defenses. Although VLSI asserts that there is no rule that provides for reply proposed findings of fact and conclusions of law, there is also no rule that contemplates that reply proposed findings of fact and conclusions of law should not be filed. Moreover, it would be highly prejudicial to Intel if VLSI were permitted to offer new facts and arguments in response to Intel's Bench Trial Claims and Defenses and if Intel were not permitted to submit reply findings of fact and conclusions of law.

VLSI's position is that no rule provides for reply proposed findings of fact and conclusions of law and that it would be highly prejudicial to VLSI if Intel were allowed to submit modified and/or additional proposed findings of fact and conclusions of law at the reply phase. Under the schedule above, each party would submit proposed findings of fact and conclusions of law, and each party would then get a subsequent brief for responsive argument. What Intel proposes is one-sided and unfair, as it would allow Intel to submit modified and/or additional proposed findings of fact and conclusions of law at the reply phase while giving VLSI no opportunity to respond to those new submissions in any subsequent brief or other filing. Should the Court agree with Intel, VLSI reserves the right to submit sur-reply proposed findings of fact and conclusions of law.

d. May 26, 2021:

- i. The parties to jointly file final proposed findings of fact and conclusions of law on Intel's Bench Trial Claims and Defenses, with agreed findings and conclusions separated from those in dispute.

4. For clarity and avoidance of doubt, this stipulation shall not apply to pending motions (e.g., D.I. 581) or to post-trial motions other than Renewed JMOL and New Trial Motions, which shall be briefed in accordance with the default schedule provided for in the Local Rules for the Western District of Texas unless the parties agree or the Court orders otherwise.²

Dated: April 3, 2021

By: /s/ J. Mark Mann

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² To the extent that either party files any post-trial motion other than Renewed JMOL and New Trial Motions, the parties agree to work in good faith on a stipulated schedule for those motions. The parties also agree to work in good faith on a stipulated schedule for briefing on pending motions (e.g., D.I. 581) should an extension be requested.

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Attorneys for VLSI Technology LLC

SO ORDERED, this ____ day of _____, 2021.

The Honorable Alan D. Albright

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing instrument was served or delivered electronically via email, to all counsel of record, on April 3, 2021.

/s/ J. Mark Mann _____

J. Mark Mann